

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE E. WORKERS' COMPENSATION INSURANCE

CHAPTER 2054. TEXAS MUTUAL INSURANCE COMPANY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2054.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the company.

(2) Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.056, eff. September 1, 2007.

(3) "Company" means the Texas Mutual Insurance Company.

(4) "Workers' compensation insurance" means insurance for a risk under:

(A) Subtitle A, Title 5, Labor Code;

(B) Chapter 504, Labor Code;

(C) the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Section 901 et seq.);

(D) the Federal Mine Safety and Health Act of 1977 (30 U.S.C. Section 801 et seq.);

(E) the Defense Base Act (42 U.S.C. Sections 1651-1654);

(F) the federal Employers' Liability Act (45 U.S.C. Section 51 et seq.);

(G) the Nonappropriated Fund Instrumentalities Act (5 U.S.C. Sections 8171-8173);

(H) the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.); or

(I) the Merchant Marine Act of 1920 (46 App. U.S.C. Section 861 et seq.).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.056, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.056, eff. September 1, 2007.

Sec. 2054.002. REFERENCE TO TEXAS WORKERS' COMPENSATION INSURANCE FUND. A reference in state law to the Texas Workers' Compensation Insurance Fund means the Texas Mutual Insurance Company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.003. OPERATION AS DOMESTIC MUTUAL INSURANCE COMPANY. (a) The company operates as a domestic mutual insurance company under Chapter [883](#). The company is subject to that chapter, but is not subject to Chapter [826](#).

(b) The company:

(1) has the legal rights of a mutual insurance company operating under Chapter [883](#) and of an individual in this state; and

(2) may bring a suit in the company's own name without any procedural prerequisites to the exercise of that power.

(c) The company is not a state agency or executive agency or a governmental entity for any purpose.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 23 (S.B. [192](#)), Sec. 1, eff. May 4, 2007.

Sec. 2054.004. INSURANCE COMPANY UNDER TEXAS WORKERS' COMPENSATION ACT. The company is an insurance company for purposes of Subtitle A, Title 5, Labor Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.005. APPLICABILITY OF CODE. The company is subject to this code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.006. AUTHORITY OF COMMISSIONER AND DEPARTMENT.

(a) The commissioner may regulate the company to the same extent that the commissioner may regulate a mutual insurance company.

(b) The company is subject to the jurisdiction of the commissioner and department in the same manner as a private insurance company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.007. OPEN MEETINGS LAW AND OPEN RECORDS LAW NOT APPLICABLE. Notwithstanding any other state law, Chapters 551 and 552, Government Code, do not apply to the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 23 (S.B. 192), Sec. 2, eff. May 4, 2007.

Sec. 2054.008. INVESTIGATION FILES. (a) In this section, "investigation file" means information the company compiles or maintains with respect to a company investigation authorized by law.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 23, Sec. 6, eff. May 4, 2007.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 23, Sec. 6, eff. May 4, 2007.

(d) Except as provided by Subsection (e), a company investigation file:

(1) is confidential; and

(2) may be disclosed only:

(A) in a criminal proceeding;

(B) in a hearing conducted by the division of workers' compensation of the department;

(C) on a judicial determination of good cause; or

(D) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or

proper for the enforcement of a law of this state, another state, or the United States.

(e) Disclosure of information in an investigation file that is contained in or derived from a claim file, an employer injury report, or an occupational disease report is governed by any confidentiality provision applicable to that information.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 23 (S.B. [192](#)), Sec. 3, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. 23 (S.B. [192](#)), Sec. 4, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. 23 (S.B. [192](#)), Sec. 6, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.051(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.051(a), eff. September 1, 2007.

Sec. 2054.009. CONFLICTS WITH CERTAIN INSURANCE LAWS. To the extent of a conflict between this chapter and Chapter [883](#) or another law of this state applicable to a nonlife mutual insurance company, this chapter prevails.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 2054.051. BOARD OF DIRECTORS; COMPOSITION. (a) The company is governed by a board composed of nine members.

(b) The governor, with the advice and consent of the senate, shall appoint five board members. The company's policyholders shall elect the remaining members.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.052. QUALIFICATIONS. (a) Each board member must be a resident of this state.

(b) An individual may not serve as a board member if the individual, another individual related to the individual within the second degree by consanguinity or affinity, or another individual residing in the same household with the individual:

(1) is registered or licensed under this code or is required to be registered or licensed under this code;

(2) is employed by or acts as a consultant to a person registered or licensed under this code or required to be registered or licensed under this code;

(3) owns, controls, has a financial interest in, or participates in the management of an organization registered or licensed under this code or required to be registered or licensed under this code;

(4) receives a substantial tangible benefit from the company or the department; or

(5) is an officer, employee, or consultant of an association in the field of insurance.

(c) Subsection (b) does not prohibit an individual from serving as a board member if the individual is only a policyholder or a consumer of insurance or insurance products.

(d) An individual who is ineligible to serve on the board under Subsection (b) may not serve as a board member until the first anniversary of the date the condition that makes the individual ineligible ends.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.053. PRESIDING OFFICER; OTHER OFFICERS. (a) The governor shall designate a board member as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The board members shall elect annually any other officers the board considers necessary to perform the board's duties.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.054. TERMS. (a) Board members serve staggered six-year terms, with the terms of three members expiring July 1 of each odd-numbered year.

(b) A board member whose term has expired shall continue to serve until the member's successor is appointed by the governor or is elected by the company's policyholders, as applicable.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.055. VACANCIES. (a) The governor shall fill a vacancy in the appointed board members by appointment with the advice and consent of the senate.

(b) A vacancy in the elected board members shall be filled as provided by the company's bylaws.

(c) If a vacancy occurs before the date the vacating member's term expires, the successor member shall be appointed or elected for a term that expires on the same date as the vacating member's term.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment or election the qualifications required by Section 2054.052;

(2) does not maintain during service on the board the qualifications required by Section 2054.052;

(3) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed or elected; or

(4) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year.

(b) The validity of a board action is not affected by the fact that it is taken when a ground for removal of a board member exists.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.057. PROCEDURES FOR REMOVAL. (a) If the president of the company has knowledge that a potential ground for removal of a board member exists, the president shall notify the presiding officer of the board of the potential ground.

(b) If the potential ground for removal involves an appointed board member, the presiding officer shall notify the governor and the attorney general that a potential ground for removal exists.

(c) If the potential ground for removal involves the presiding officer, the president shall notify the next highest board officer, who shall notify the governor and the attorney general that a potential ground for removal exists.

(d) If the potential ground for removal involves an elected board member, the board shall act on the potential ground for removal as provided by the company's bylaws.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.058. COMMITTEES AND SUBCOMMITTEES. The board may create committees and subcommittees.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.059. MEETINGS. (a) The board shall hold a meeting at least once each calendar quarter, at other times at the call of the presiding officer, and at times established by the company's bylaws.

(b) A special meeting may be called by any two board members on two days' notice.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.060. QUORUM. Five board members constitute a quorum.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.061. COMPENSATION. A board member is entitled to receive:

(1) fees for service on the board commensurate with industry standards; and

(2) actual and necessary travel expenses and any other expense incurred in performing the member's duties.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER C. MANAGEMENT OF COMPANY

Sec. 2054.101. GENERAL POWERS OF BOARD. The board has full authority over the company and may:

(1) perform any act necessary or convenient to administer the company or in connection with the company's insurance business; and

(2) function in all aspects as the governing body of a domestic mutual insurance company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.102. GENERAL DUTIES OF BOARD RELATING TO WORKERS' COMPENSATION INSURANCE. The board shall:

(1) provide for engaging in the business of workers' compensation insurance and for the delivery in this state of workers' compensation insurance to the same extent as any other insurance company engaging in the business of workers' compensation insurance in this state;

(2) propose rates for workers' compensation insurance issued by the company; and

(3) exercise any other authority necessary to engage in the business of workers' compensation insurance.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.103. APPOINTMENT OF PRESIDENT. (a) The board shall appoint a president who serves at the pleasure of the board.

(b) The president must have proven successful experience as an executive at the general management level in the business of insurance.

(c) The president shall receive compensation as set by the board.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.104. APPOINTMENT OF INTERNAL AUDITOR. The board shall appoint an internal auditor who serves at the pleasure of the board.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.105. PERSONAL LIABILITY OF BOARD MEMBERS, OFFICERS, AND EMPLOYEES. In connection with the administration, management, or conduct of the company, the company's business, or a related matter, a board member, the president, or an officer or employee of the company is not personally liable in the individual's private capacity for an act performed or a contract or other obligation entered into or undertaken in the individual's official capacity in good faith and without intent to defraud.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.106. PRINCIPAL OFFICE. The board shall maintain the company's principal office in Travis County.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 3752, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 2054.107. CERTAIN RELATIONSHIPS WITH OTHER INSURERS PROHIBITED. The company may not have:

(1) an affiliate, spin-off, or subsidiary that writes a line of insurance other than workers' compensation insurance; or

(2) interlocking boards of directors with an insurer that writes a line of insurance other than workers' compensation insurance.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.108. PROGRAM AND FACILITY ACCESSIBILITY. (a) The company shall comply with federal and state laws that relate to program and facility accessibility.

(b) The president shall prepare and maintain a written plan that describes the manner in which an individual who does not speak English can be provided reasonable access to the company's programs and services.

(c) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the company's jurisdiction.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER D. OPERATION OF COMPANY; FINANCIAL ADMINISTRATION

Sec. 2054.151. PURPOSES OF COMPANY. The company shall:

(1) serve as a competitive force in the marketplace;

(2) guarantee the availability of workers' compensation insurance in this state; and

(3) serve as an insurer of last resort as provided by Subchapter H.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.152. PAYMENT OF TAXES, FEES, AND OTHER CHARGES. The company shall pay the following in the same manner as a domestic

mutual insurance company authorized to engage in the business of insurance and to write workers' compensation insurance in this state:

- (1) taxes, including maintenance and premium taxes;
- (2) fees; and
- (3) payments due in lieu of taxes.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.153. MEMBERSHIP IN TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION. (a) In this section, "association" means the Texas Property and Casualty Insurance Guaranty Association.

(b) The company is:

- (1) a member of and protected by the association; and
- (2) subject to assessment under Chapter [462](#).

(c) Notwithstanding Subsection (b), the company is liable only for an assessment by the association regarding a claim with a date of injury occurring on or after January 1, 2000, and the association, with respect to an insolvency of the company, is liable only for a claim with a date of injury occurring on or after that date.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.154. COMPANY ASSETS; STATE LIABILITY. (a) All money, revenues, and other assets of the company belong solely to the company and are governed by the laws applicable to domestic mutual insurance companies.

(b) The state:

(1) covenants with the company's policyholders, persons receiving workers' compensation benefits, and the company's creditors that the state will not borrow, appropriate, or direct payments from the company's money, revenues, or other assets for any purpose; and

(2) has no liability or responsibility to those policyholders, persons receiving benefits, or creditors if the

company is placed in conservatorship or receivership or becomes insolvent.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.155. REQUIRED RESERVES. The company shall establish and maintain reserves for losses on an actuarially sound basis in accordance with Chapter 426.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.156. RATIO OF CERTAIN PREMIUMS TO SURPLUS. The company shall maintain a ratio of net written premiums on policies written after reinsurance to surplus of not more than three to one.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.157. DISSOLUTION PROHIBITED. The company may not be dissolved.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER E. EXAMINATIONS, REPORTS, AND FILINGS

Sec. 2054.201. EXAMINATION BY DEPARTMENT. (a) The department shall examine the company in the manner and under the conditions specified by Chapters 86 and 401 for the examination of insurers.

(b) The company shall pay the costs of the examination.
Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.202. PROVIDING INFORMATION TO LEGISLATURE. The company shall provide requested information to each appropriate legislative committee in the manner requested by the committee.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.203. ANNUAL ACCOUNTING OF MONEY RECEIVED AND DISBURSED. Each year, the company shall prepare a complete and detailed written report accounting for all money the company received and disbursed during the preceding fiscal year.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.204. ANNUAL STATEMENTS. (a) The company shall file annual statements with the department in the same manner as is required of other workers' compensation insurance companies.

(b) The department shall include in the department's annual report under Section 32.021 a report on the company's condition.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.052(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.052(a), eff. September 1, 2007.

Sec. 2054.205. PUBLICATION AND FILING OF AUDITED REPORT. The board shall:

(1) publish an independently audited report analyzing the company's activities and fiscal condition during the preceding fiscal year; and

(2) file the audited report with the department for submission simultaneously with its annual financial report.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.206. ADDITIONAL REPORTS. The company shall file with the department all reports required of other workers' compensation insurance companies.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.053(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.053(a), eff. September 1, 2007.

Sec. 2054.207. PERIODIC REPORTS TO BOARD. The president shall make periodic reports to the board regarding:

- (1) the company's status; and
- (2) the company's investments.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER F. GENERAL POWERS AND DUTIES RELATING TO INSURANCE

Sec. 2054.251. RATEMAKING AUTHORITY. (a) Except as provided by this section, the board may propose rates to be charged by the company for insurance.

(b) The board shall engage the services of an independent actuary who is a member in good standing with the Casualty Actuarial Society or the American Academy of Actuaries to develop and recommend actuarially sound rates.

(c) The company is subject to the requirements of Subchapter A, Chapter 2053, and shall include the recommendations of the independent actuary as part of the company's filing under that subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.252. AMOUNTS OF RATES. Rates charged by the company for insurance must be set in amounts sufficient, when invested, to:

- (1) carry all claims to maturity;
- (2) meet the reasonable expenses of conducting the company's business; and
- (3) maintain a reasonable surplus.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.253. MULTITIERED PREMIUM SYSTEMS. (a) Notwithstanding any other provision of this code or another insurance law of this state, the company may establish multitiered premium systems to price workers' compensation insurance policies to:

(1) insureds in the company's competitive programs; and

(2) insureds to whom policies are offered by the company under Subchapter H.

(b) The systems may provide for a higher or lower premium payment by an insured based on the company's evaluation of the underwriting characteristics of the individual risk and the appropriate premium to be charged for the policy coverages.

(c) The systems must be filed in accordance with Subchapter A, Chapter 2053.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.0531, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.0531, eff. September 1, 2007.

Sec. 2054.254. CASH DIVIDENDS; CREDIT ON RENEWAL PREMIUM.

(a) The company may pay a cash dividend or allow a credit on the renewal premium for a policyholder insured with the company, other than a policyholder insured under Subchapter H.

(b) Payment of a cash dividend or allowance of a credit:

(1) must be made in accordance with criteria approved by the board, which may consider the policyholder's safety record and performance; and

(2) may be made only with the department's prior approval.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.255. APPOINTMENT OF AGENT NOT REQUIRED. (a) Notwithstanding any other provision of this code or another insurance law of this state, the company is not required to appoint a general property and casualty agent to act as an agent for the company.

(b) An agent who transacts business with the company acts as an agent for the applicant and not as an agent for the company, unless the company and the agent have entered into a written agreement for the agent to act on behalf of the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.256. WORK PRODUCT INFORMATION. (a) Information submitted to the company by an insurance agent on behalf of an employer, including a policy expiration date, is the work product of the agent. The company may not use the information in any marketing or direct sales activity.

(b) The company may not provide to an insurance agent information obtained from another insurance agent.

(c) This section does not prevent:

(1) an employer from designating another insurance agent or the company as the agent of record; or

(2) the company from using information submitted to the company under this section for underwriting or a fraud investigation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 23 (S.B. 192), Sec. 5, eff. May 4, 2007.

Sec. 2054.257. PAYMENT OF COMMISSION TO AGENT. The company shall pay an insurance agent a reasonable commission on a workers' compensation insurance policy that is written through the agent.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER G. ISSUANCE OF COVERAGE

Sec. 2054.301. APPLICATION FOR COVERAGE. An application to the company for workers' compensation insurance coverage must be:

- (1) made on the form prescribed by the company; and
 - (2) submitted directly by the applicant or by a general property and casualty agent on behalf of the applicant.
- Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.302. POLICY FORMS. The company shall use the uniform policy and standard policy forms prescribed by the department under Section 2052.002.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.303. DENIAL OF COVERAGE BASED ON CREDIT RISK. The company may refuse to write insurance coverage for an applicant that the company identifies as a credit risk unless the applicant, before a policy is issued:

- (1) pays the total estimated premium and related charges; or
- (2) provides security for payment of the total estimated premium and related charges.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.304. CANCELLATION AND NONRENEWAL. The company may cancel or refuse to renew coverage on a policyholder as provided by Section 406.008, Labor Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER H. COMPANY AS INSURER OF LAST RESORT

Sec. 2054.351. INSURER OF LAST RESORT. (a) Except as provided by Section 2054.304 and this subchapter, the company may

not refuse to insure a risk that tenders:

(1) the necessary premium; and

(2) any applicable accident prevention service fee.

(b) If an applicant would be rejected for workers' compensation insurance under the company's underwriting standards, the company may not reject the risk, but shall insure the risk at a higher premium as provided by the company's requirements. The company may require the risk to meet other conditions considered necessary to protect the company's interests.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.352. REQUIRED DECLINATION OF CERTAIN RISKS. (a) In this section, "good faith" means honesty in fact in any conduct or transaction.

(b) The company shall decline to insure a risk if:

(1) insuring the risk would cause the company to exceed the premium-to-surplus ratios established by Section 2054.156; or

(2) the risk is not, in good faith, entitled to insurance through the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.353. REQUIRED INSURANCE OF CERTAIN COMMONLY OWNED OR CONTROLLED ENTITIES. If the company suspects fraud or identifies conditions that may result in acts of fraud, the company may require an applicant for workers' compensation insurance coverage who is identified as a risk for purposes of Section 2054.351(b) to insure all business entities that are commonly owned or controlled by the applicant.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.354. DEVELOPMENT AND PUBLICATION OF CERTAIN INFORMATION. (a) The company shall develop statistical and other information as necessary to allow the company to distinguish

between the company's:

- (1) writings in the voluntary market; and
- (2) writings as the insurer of last resort.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 558 (S.B. [1336](#)), Sec. 6, eff. July 1, 2020.

(c) On request, the company shall report statistical or other information developed under Subsection (a) to:

- (1) the department; or
- (2) any successor entity for research and oversight of the workers' compensation system of this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 558 (S.B. [1336](#)), Sec. 6, eff. July 1, 2020.

SUBCHAPTER I. APPEALS

Sec. 2054.401. APPEAL OF CERTAIN ACTIONS AND DECISIONS. (a) An act or decision by the company to deny, cancel, or refuse to renew a policy or risk insured under Subchapter H may be appealed to the board not later than the 30th day after the date the affected party receives actual notice that the act occurred or the decision was made.

(b) The company shall:

- (1) not later than the 30th day after the date the request for hearing is made, hear the appeal; and
- (2) not later than the 10th day before the date of the hearing, notify the appellant in writing of the time and place of the hearing.

(c) Not later than the 30th day after the last day of the hearing, the board shall affirm, reverse, or modify the act or decision appealed to the board.

(d) Unless the board specifically orders otherwise, a hearing under this section does not suspend the operation of an act or decision of the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff.

April 1, 2007.

Sec. 2054.402. REVIEW OF BOARD DECISION BY COMMISSIONER.

(a) A board decision under Section 2054.401 is subject to review by the commissioner in the manner provided by Chapter 2001, Government Code.

(b) The commissioner's review of a board decision does not suspend the operation of an act or decision of the company unless the commissioner specifically orders the suspension on a showing by an aggrieved party of:

(1) immediate, irreparable injury, loss, or damage; and

(2) probable success on the merits.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.403. APPEAL OF COMMISSIONER'S DECISION. (a) A person aggrieved by a decision of the commissioner under Section 2054.402 may appeal the decision to a district court.

(b) Judicial review under this section is governed by the substantial evidence rule.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER J. CONTROL OF FRAUD AND OTHER VIOLATIONS

Sec. 2054.451. IDENTIFICATION AND INVESTIGATION PROGRAM FOR FRAUD AND OTHER VIOLATIONS. (a) The company shall develop and implement a program to identify and investigate acts of fraud and violations of this code relating to workers' compensation insurance by applicants, policyholders, claimants, agents, insurers, health care providers, or other persons.

(b) The company shall cooperate with the division of workers' compensation of the department to compile and maintain information necessary to detect practices or patterns of conduct that violate this code relating to workers' compensation insurance or that violate Subtitle A, Title 5, Labor Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.054(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.054(a), eff. September 1, 2007.

Sec. 2054.452. INVESTIGATIONS; COORDINATION. (a) The company may investigate cases of suspected fraud and violations of this code relating to workers' compensation insurance.

(b) The company may:

(1) coordinate the company's investigations with those conducted by the division of workers' compensation of the department to avoid duplication of efforts; and

(2) refer to the division of workers' compensation of the department a case that is not otherwise resolved by the company so that the division may:

(A) perform any further investigation necessary under the circumstances;

(B) conduct administrative violation proceedings; and

(C) assess and collect penalties and restitution.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.054(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.054(b), eff. September 1, 2007.

Sec. 2054.453. RESTITUTION PAYABLE TO COMPANY. Restitution collected under Section [2054.452](#)(b) must be paid to the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.454. DEPOSIT AND USE OF PENALTIES COLLECTED BY DIVISION. A penalty collected under Section 2054.452(b):

(1) must be deposited in the Texas Department of Insurance operating account; and

(2) may be appropriated only to the division of workers' compensation of the department to offset the costs of the program under Section 2054.451.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.054(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.054(c), eff. September 1, 2007.

Sec. 2054.455. FUNDING AGREEMENTS FOR CRIMINAL PROSECUTIONS. The company may enter into funding agreements with local prosecutors to prosecute offenses against the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.456. IMMUNITY FOR CERTAIN ACTIONS. The company, the board, and company employees are not liable in a civil action for an action taken in good faith in executing a duty under this subchapter, including identifying or referring a person for investigation of or prosecution for a possible administrative violation or criminal offense.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER K. ACCIDENT PREVENTION

Sec. 2054.501. DEFINITION. In this subchapter, "division" means the division of workers' compensation of the department.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.055(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.055(a), eff. September 1, 2007.

Sec. 2054.502. REQUIREMENTS FOR PREVENTION OF INJURIES. The company may make and enforce requirements for the prevention of injuries to an employee of a policyholder or applicant for insurance under this chapter. On reasonable notice, a policyholder or applicant shall grant representatives of the company or the department free access to the premises of the policyholder or applicant during regular working hours for purposes of this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.055(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.055(b), eff. September 1, 2007.

Sec. 2054.503. GROUNDS FOR CANCELLATION OR DENIAL OF COVERAGE. A failure or refusal by a policyholder or applicant for insurance to comply with a requirement prescribed by the company under Section [2054.502](#), or a failure or refusal to fully disclose all information pertinent to insuring or servicing the policyholder or applicant, constitutes sufficient grounds for the company to cancel a policy or deny an application.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.504. SAFETY CONSULTATION FOR CERTAIN INSURED. (a) A policyholder who is insured under Subchapter H shall obtain a safety consultation:

(1) if the policyholder:

(A) has a Texas experience modifier greater than 1.25;

(B) has a national experience modifier greater than 1.25 and estimated premium allocable to this state of \$2,500 or more; or

(C) does not have an experience modifier but has had a loss ratio greater than 0.70 in at least two of the three most recent policy years for which information is available; or

(2) as required by the company, if the policyholder:

(A) has been in business for less than three years; and

(B) meets the criteria established by the company for a safety consultation.

(b) The criteria under Subsection (a)(2)(B) may include:

(1) the number and classification of employees;

(2) the policyholder's industry; and

(3) the policyholder's previous workers' compensation experience in this state or another jurisdiction.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.505. SAFETY CONSULTATION PROCEDURES. Not later than the 30th day after the effective date of a policy, the policyholder shall obtain a safety consultation required under Section 2054.504 from a safety consultant. The safety consultant must be:

(1) the company;

(2) the division; or

(3) a professional source approved for that purpose by the division.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.506. SAFETY CONSULTANT REPORT. A safety consultant acting under this subchapter shall file a written report with the division and the policyholder specifying any hazardous condition or practice identified in the safety consultation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.055(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.055(c), eff. September 1, 2007.

Sec. 2054.507. ACCIDENT PREVENTION PLAN. (a) If a safety consultant identifies a hazardous condition or practice, the policyholder and the safety consultant shall develop a specific accident prevention plan that addresses the condition or practice.

(b) The safety consultant may approve an existing accident prevention plan.

(c) The policyholder shall comply with the accident prevention plan.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.508. ACCIDENT INVESTIGATIONS; OTHER MONITORING. The division may:

(1) investigate an accident that occurs at a work site of a policyholder for whom an accident prevention plan was developed under Section [2054.507](#); and

(2) otherwise monitor as the division determines necessary the implementation of the accident prevention plan.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2054.509. FOLLOW-UP INSPECTION. (a) Not earlier than the 90th day after or later than the sixth month after the date an accident prevention plan is developed under Section [2054.507](#), the division shall conduct a follow-up inspection of the policyholder's premises in accordance with rules adopted by the commissioner of workers' compensation.

(b) The division may require the participation of the safety consultant who performed the initial consultation and developed the accident prevention plan.

(c) If the commissioner of workers' compensation determines

that a policyholder has complied with the terms of the accident prevention plan or has implemented other accepted corrective measures, the commissioner of workers' compensation shall certify that determination.

(d) If the commissioner of workers' compensation determines that a policyholder has failed or refuses to implement the accident prevention plan or other suitable hazard abatement measures, the policyholder may elect to cancel coverage not later than the 30th day after the date of the determination.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.055(d), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.055(d), eff. September 1, 2007.

Sec. 2054.510. CANCELLATION OF COVERAGE BY COMPANY; IMPOSITION OF ADMINISTRATIVE PENALTY. (a) If a policyholder described by Section 2054.509(d) does not elect to cancel coverage as provided by that section:

- (1) the company may cancel the coverage; or
- (2) the commissioner of workers' compensation may impose an administrative penalty on the policyholder.

(b) The amount of an administrative penalty under Subsection (a)(2) may not exceed \$5,000. Each day of noncompliance constitutes a separate violation.

(c) In imposing an administrative penalty, the commissioner of workers' compensation may consider any matter that justice may require and shall consider:

- (1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
- (2) the history and extent of previous administrative violations;
- (3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the

prohibited act;

(4) any economic benefit resulting from the prohibited act; and

(5) the penalty necessary to deter future violations.

(d) A penalty collected under this section:

(1) must be deposited in the general revenue fund; and

(2) may be appropriated to the division to offset the costs of implementing and administering this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.055(e), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.055(e), eff. September 1, 2007.

Sec. 2054.511. CONTINUING COMPLIANCE WITH SUBCHAPTER. The procedures established under this subchapter must be followed each year the policyholder meets the criteria established by Section 2054.504(a)(1).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.512. FEES FOR SERVICES. The division shall:

(1) charge a policyholder for the reasonable cost of services provided to the policyholder under Sections 2054.505, 2054.506, 2054.507, 2054.509, and 2054.510(a); and

(2) set the fees for the services at a cost-reimbursement level, including a reasonable allocation of the division's administrative costs.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.055(f), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.055(f), eff. September 1, 2007.

Sec. 2054.513. ENFORCEMENT OF SUBCHAPTER. The division shall enforce compliance with this subchapter through the administrative violation proceedings under Chapter 415, Labor Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.055(g), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.055(g), eff. September 1, 2007.

SUBCHAPTER L. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 2054.551. PUBLIC INTEREST INFORMATION. (a) The company shall prepare information of public interest describing the functions of the company and the procedures by which complaints are submitted to and resolved by the company.

(b) The company shall make the information available to the public and appropriate state agencies.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.552. COMPLAINTS. (a) The company shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the company for the purpose of directing a complaint to the company.

(b) The company may provide for the notice:

(1) by a supplement or endorsement to a written policy;

(2) on a sign prominently displayed in the place of business of each regional office of the company; or

(3) in a bill for services provided by the company.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2054.553. COMPLAINT RECORD. (a) The company shall keep information about each written complaint filed with the company. The information must include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for a complaint for which the company takes no action, an explanation of the reason the complaint was closed without action.

(b) For each written complaint the company receives and has authority to resolve, the company shall:

- (1) provide the company's policies and procedures relating to complaint investigation and resolution to the person filing the complaint and each person or entity that is a subject of the complaint; and
- (2) at least quarterly and until final disposition of the complaint, notify the person filing the complaint and each person or entity that is a subject of the complaint of the status of the complaint unless the notification would jeopardize an undercover investigation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.